GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Public Servants –Commercial Taxes Department – Disciplinary action initiated against Sri K.Srinivasa Rao, former Deputy Commissioner, Guntur & Presently Deputy Commissioner(Commercial Taxes), O/o Commissioner of Commercial Taxes, Andhra Pradesh, Hyderabad, for non collection of balance tax from M/s.NAFED, Chennai Branch – Regular Inquiring Officer appointed -Inquiry conducted under rule 20 of Andhra Pradesh Civil Services (Classification Control & Appeal) Rules, 1991 – Inquiry Report communicated – Representation filed by Charged Officer – Further action dropped – orders – Issued.

REVENUE(VIGILANCE-II) DEPARTMENT

G.O.Rt.No.535 Dated:05-05.2016.

Read the following:-

Ref:-1. From CCT Ref No.V1/1532/09, dt.19-02-2010.
2. G.O.Rt.No.607, Rev (Vig.I) Dept., dated 23-04-2010. (CO-1).
3. Representations of Sri K.Srinivasa Rao, former DC Guntur dated 02-05-2010 and 24-12-2011.
4. G.O.Rt.No.692, Rev (Vig.I) Dept., dated 13-06-2011(IA Appt).
5. From CCT Ref No.V1/1532/09, dt.30-05-2013 along with Ref No.Addl.CCT (Legal)Peshi/11-1 & 2, dt.16-05-2013 (IRs).
6. Govt.Memo No.9213/Vig.I(1)/2010-7, dt.21-06-2013 (CO-1).
7. Representations of Sri K.Srinivasa Rao, former DC Guntur dt.22-07-13, 20-08-2013, 23-02-2015, 01-04-15 & 20-05-15.
8. Govt Memo No.9213/Vig.II(3)/2010-15, dated : 06-06-2015.
9. From CCT, AP,Hyderabad, Ref No.V1/1532/09, dt.08-10-2015.

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ORDER:

Whereas, in the reference 1st read above, the Commissioner of Commercial Tax brought to the notice of the Government that Sri K.Srinivasa Rao, while working as Deputy Commissioner (Commercial Tax), Guntur (Charged Officer-1) had failed to comply with instructions issued by higher authorities in collecting the balance of the disputed tax of Rs.1.06 crores from the dealer M/s.NAFED, (National Agricultural Co-operative Marketing Federation of India Ltd.,) a Central Government Undertaking when no stay orders are granted as per the list of appeals communicated by Appellate Deputy Commissioner, Guntur to the Charged Officer-I and exhibited gross negligence in discharging his duties and recommended to initiate disciplinary action against Charged Officer-1.

2. Where as, the Government after examining the proposal, initiated disciplinary action against Charged Officer-1 & framed the following five article of charges vide orders 2nd read above.

Charge-I

That Sri K.Srinivasa Rao, while working as Deputy Commissioner (Commercial Tax) Guntur-I Division during 21-07-2008 to till date of initiating disciplinary action, was communicated with a list of appeals filed before Appellate Deputy Commissioner, Guntur, vide Commissioner of Commercial Taxes ref.No.Legal Cell-ADC-GNT-Disposals-Nov.2008, dated: 22-12-2008 to enforce the collection of tax in respect of the cases that are not covered by stay applications/stay orders. In response Charged Officer-1 informed that "Instructed the Assistant Commissioner (Commercial Tax) (LTU) to enforce collection and action is being taken to initiate action u/CRR Act". However, in the Commissioner of Commercial Taxes Ref.No.LC/ADC, GNT/Review/1 /2009 GNT-I, dated: 04-05-2009, Deputy Commissioner (Commercial Tax), Guntur-I division was specifically communicated with a list of appeals filed without stay petitions and not admitted by the Appellate Deputy Commissioner Guntur as on 04-05-2009 with a request to enforce the collection of entire disputed tax amounts, among which M/s NAFED is one of the case and requested to submit compliance report by

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12-06-2009. But Charged Officer shown gross negligence to his duties and failed to comply with the instructions of higher authorities, which is a serious lapse.

Charge-II

That during aforesaid period and while functioning in the aforesaid office, the said Sri K.Srinivasa Rao, Deputy Commissioner (Commercial Tax) Guntur-I Division, was communicated with a list of appeals pending before Appellate Deputy Commissioner Guntur once again vide Commissioner of Commercial Taxes ref.No.LC/ADC,GNT/disposals/April 2009, dated: 29-05-2009 during May 2009 with a request to enforce collection of taxes and report compliance. Though M/s. NAFED did not file stay petition in cases covered with Appeal No.3 & 4/2009-10 covering demand of Rs.113.77 lakhs, the Charged Officer-I has not made any efforts to realize the above said demand. This is serious violation of instructions of the higher authorities, indicating gross and intentional negligence towards his duties.

Charge-III

That during the aforesaid period and while functioning in the aforesaid office, the Charged Officer-1, was directed to enforce the collection of disputed tax and report compliance by 31-10-2009. Again reminded on 30-11-2009. In reply he informed that as per the report of Assistant Commissioner (Commercial Tax) (LTU) Guntur an amount of Rs.7.21 lakhs was paid by M/s.NAFED while appealing before the Appellate Deputy Commissioner Guntur, leaving a balance of Rs.106.56 lakhs, which is the uncollected demand from 14-05-2008. Hence it is clear that the Charged Officer-1 has not made any efforts for the past 1 ½ years, it is only after the Commissioner (Commercial Tax) spoke to him, a reply is furnished stating that the Assistant Commissioner (Commercial Tax) (LTU) Guntur has not collected this amount. This indicates absolute negligence on the part of Charged Officer-1 towards his duties.

Charge-IV

That during the aforesaid period and while functioning in the aforesaid office said Sri K.Srinivasa Rao, Deputy Commissioner (Commercial Tax) Guntur-I Division in his reply to explanation called for, has stated that in spite of repeated instructions during revenue review meetings, the Assistant Commissioner (LTU) kept the demand uncollected for long time. This type of reply is not expected from Deputy Commissioner. He being the head of the division should have brought it to the notice of Commissioner of Commercial Tax, if Assistant Commissioner has not obeyed his instructions much earlier before Head Office pursued for compliance report. He should have entrusted to any other officer of the division for realization of arrears from M/s.NAFED in the interest of revenue, without doing this he simply tried to wash his hands by throwing burden on others. This is a serious lapse.

Charge-V

That during aforesaid period and while functioning in aforesaid office said Sri K.Srinivasa Rao, Deputy Commissioner (Commercial Tax) Guntur-I Division has stated specifically in his reply dated 16-12-2009 that to the best of his knowledge no team was sent to Chennai as no report in the matter was received from the Assistant Commissioner (LTU), Guntur. In this regard, the Assistant Commissioner (LTU) stated that the Deputy Commissioner (Commercial Tax), Guntur division has accorded permission to send a team of one Assistant Commissioner Tax Officer & one Junior Commercial Tax Inspector to go to Chennai to pursue the matter of collection of tax from M/s.NAFED, Chennai vide Rc.No.297/05 B2, dt.05-09-2008. Further the Assistant Commissioner (Commercial Tax) (LTU) Guntur has informed that no permission was given by the Deputy Commissioner, Guntur-I division to proceed for realization of arrears against M/s.NAFED, Chennai as per provision of CRR Act, in response to his letter dated 05-08-2008. In view of this, the negligence of Charged Officer-1 is clear on record. Being Head of the Division he

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failed to enquire about the details of M/s.NAFED, Chennai with regard to their address, stay, bank account transactions and to pursue the tax collections with Head Office / Branch Office and kept quiet till the Commissioner of Commercial Tax pursued for report on tax collections and till the appeals are remanded by Appellate Deputy Commissioner without making any efforts for collecting the demands outstanding against M/s.NAFED, Chennai. Thus Charged Officer has contravened Rule 3 (1) & (2) of Andhra Pradesh Civil Services (Conduct) Rules.

3. Whereas, Sri.K.Srinivasa Rao, former Deputy Commissioner (Commercial Tax) Guntur, charged officer-1, has submitted his explanation/representations, vide ref 3rd read above, denying the charges framed against him. The Government after examining the representation of Charged Officer ordered for regular inquiry into the matter by appointing Regular Enquiry Officer vide ref 4th read above. The Inquiry Officer has conducted the enquiry and submitted Inquiry Reports on each charged officer wise, vide ref 5th read above, holding that all the charges framed against Sri K.Srinivasa Rao, Deputy Commissioner (Commercial Taxes) , Guntur (Charged Officer-1) as held proved.

4. The Government vide ref 6th read above, communicated report of Inquiring Authority to the Charged Officer calling his representation as to why further action should not be taken under Rule 9 of Andhra Pradesh Civil Services (Classification Control Appeal) Rules 1991 within 10 days. The charged officer-1, Sri.K.Srinivas, Deputy Commissioner, has submitted his representation stating that "immediately after assuming the Charge as Deputy Commissioner (Commercial Tax), Guntur-I Division, he issued a note to Assistant Commissioner (Commissioner Tax), LTU directing to collect the tax from defaulters. Further, he accorded permission to depute Sri G. Nageswara Rao, Assistant Commercial Tax Officer & Sri V.Eswar Prasad, Junior Assistant to go to M/s. NAFED, Chennai Office to pursue tax collection. Further stated that the Assistant Manager of NAFED, who appeared before Charged Officer-1 did not respond for payment of tax, hence pursued the matter with Assistant Commissioner (Commercial Tax), LTU through mail on 19-08-2008 and directed to collect the tax balance by 25-08-2008, and in reply the Assistant Commissioner (Commercial Tax), LTU had issued urgent notice to the dealer. The Charged Officer-1 has finally stated that the above dealer is a Central Government undertaking and that the demand raised by the assessing authority in 2008, i.e., prior to his reporting to duty as in-charge Deputy Commissioner, Guntur in April, 2010, could not be collected even till date though several Deputy Commissioner's have worked in the above station before his reporting to duty and after his transfer from the above station. Therefore he has finally requested to drop further action against him.

5. In the ref 9th read above, the Commissioner of Commercial Tax has stated in respect of both the Charged Officers, there is no loss of revenue and the issue is pending before Hon`ble STAT, and this aspect may also be taken into consideration before passing orders.

6. Government after detailed examination of matter, keeping in view of explanation offered by Sri K.Srinivasa Rao, I/c. Deputy Commissioner, (Charged Officer-I) Office of the Commissioner of Commercial Tax, Andhra Pradesh, Hyderabad, and report submitted by the Commissioner of Commercial Tax, Andhra Pradesh, have observed that there is no loss of revenue caused to Government in the issue, hence it has been decided to warn Sri. K.Srinivasa Rao, I/c. Deputy Commissioner, (Charged Officer-I) Office of the Commissioner of Commercial Taxs, Andhra Pradesh, Hyderabad, not to repeat such things, and drop further action against him. Accordingly, the Government hereby warned Sri. K.Srinivasa Rao, I/c. Deputy Commissioner, (Charged Officer-I) Office of the Commissioner of Commercial Tax, Andhra Pradesh,Hyderabad not to repeat such things and dropped further action in the matter.

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7. The Commissioner of Commercial Tax, Andhra Pradesh, Hyderabad shall take further action, accordingly.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

AKEYA KALLAM
SPECIAL CHIEF SECRETARY TO GOVERNMENT

To,
Sri. Sri K.Srinivasa Rao,
I/c.Deputy Commissioner, (Charged Officer-I) O/o.Commissioner of Commercial Tax, Andhra Pradesh, Hyderabad. (through the Commissioner of Commercial Tax,
Andhra Pradesh,Hyderabad)
The Commissioner of Commercial Tax, Andhra Pradesh,Hyderabad.
The Deputy Commissioner (Commercial Tax), Guntur.
SC/SF

//FORWARDED :: BY ORDER//

SECTION OFFICER